

U.S. DISTRICT COURT  
EASTERN DISTRICT-WI  
FILED

IN THE UNITED STATES DISTRICT COURT FOR  
THE EASTERN DISTRICT OF WISCONSIN

2017 MAY 16 P 12:25

STEPHEN C. DRIES  
CLERK

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**PARTIES**

**Plaintiff:**

Gary Lloyd Barnes  
Pro Se

v.

Case Number: **17-C-0688**

**Respondent:**

United States of America's Attorney General Jeff Sessions for the defense of the "Winner-Take-All" method of awarding Electoral College Votes by the States, Congressional Districts' and the District of Columbia or the members of the Electoral College.

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Plaintiff is a citizen of the United States of America and resides at 2357 Sunny Lane Apt G, Suamico, Wisconsin 54313.

Respondent United States Attorney General Jeff Sessions  
U. S. Department of Justice  
950 Pennsylvania Avenue, NW  
Washington, DC 20530-0001

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## PURPOSE OF THIS ACTION

1. This action **challenges** the constitutionality of the “winner-take-all” practice of awarding all of a state’s, Congressional Districts’ and the District of Columbia’s electoral vote(s) to only the party nominated candidate who receives the most citizen’s (popular) votes in the state, Congressional District or the District of Columbia in the General Election for President and Vice-President.
2. This action **challenges** the legitimacy of the electoral votes that were submitted, by members of the Electoral College (electors for President and Vice-President) from all of the states, Congressional Districts and the District of Columbia, after the November 8, 2016 General Election for President Vice-President, to be counted by the President of the States Senate on January 6, 2017.
3. This action **challenges** the legitimacy of Donald Trump’s and Mike Pence’s election to the office of President and Vice-President of the United States, because members of the Electoral College (electors for President and Vice-President) from all of the states, Congressional Districts and the District of Columbia falsified the electoral vote totals that were submitted to be counted by the President of the States Senate on January 6, 2017.
4. This action **does not** challenge the United States’ indirect Electoral College method of choosing a President and Vice-President.
5. This action **does not** challenge the manner in which United States citizens vote for an elector for President and Vice-President to be a representation of the citizen’s vote for the party nominated candidate of the citizen’s choice.

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### **STATEMENT OF ACTION**

1. The United States of America uses an indirect system of voting for President and Vice-President.
2. This indirect system of voting is called the Electoral College.
3. The Electoral College consists of 538 members.
4. The Electoral College members are allocated among the states equal to the whole number of senators and representatives to which the state is entitled in Congress. (United States Constitution, Article II, section 1)
5. Therefore, electoral votes are the property of the Federal Government.
6. Electoral College members are referred to as electors for president and vice-president. (United States Constitution, Amendment XIV, Amendment XXIV)
7. Nothing in the United States Constitution or any of its amendments indicated that the citizens of the United States had the right to vote for President or Vice-President prior to 1964.
8. Citizens only had the right to vote for the electors for President and Vice-President.
9. Citizens had to rely on the conscience and integrity of the members of the Electoral College to properly allocate the citizen's votes between each party nominated candidate so each citizen's vote would be represented when the President of the United States Senate counted the electoral votes that had been submitted.
10. The adoption of United States Constitutional Amendment XXIV, in 1964, ended the need for citizens to have to rely on the conscience and integrity of the members of the Electoral College.
11. Constitutional Amendment XXIV does not state that the citizens have the right to vote directly for President and Vice-President.
12. If citizens were allowed to vote directly for President and Vice-President, there would not be any need for the Electoral College.

13. Constitutional Amendment XXIV states a reason why the right of citizens of the United States to vote for President or Vice-President, for electors for President or Vice-President shall not be denied or abridged by the United States or any state (or Congressional District or the District of Columbia).
14. The right of citizens to vote for president and vice-president through the electors for president and vice-president has been created because at least one reason was adopted stating why those voting rights cannot be denied or abridged.
15. Constitutional Amendment IX indicates the citizen's rights are too numerous to list in the Constitution.
16. Likewise, reasons why the citizen's right to vote for President and Vice-President, electors for president and vice-president cannot be denied or abridged would be too numerous to list in the Constitution.
17. Those who adopted Constitutional Amendment XXIV, in 1964, chose to retain the Electoral College form of indirect voting for President and Vice-President and not abandon it.
18. Therefore, the only Constitutional method for citizens to vote for President and Vice-President is through Electoral College members (electors for President and Vice-President).
19. Therefore, United States citizens vote for President and Vice-President by having their votes for the party nominated candidate of their choice converted to an Electoral College vote for the particular party nominated candidate of their choice in the General Election for President.
20. Constitutional Amendment XXIV ties Electoral College votes directly to the citizen's popular votes.
21. The vote of one elector for President and Vice-President represents a large number of citizen's popular votes depending on the number of citizens who voted in the state, Congressional District or the District of Columbia in the General Election.

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22. Constitutional Amendment XXIV therefore gives United States citizens the right and power to elect the president and vice-president of the United States through a party nominated candidate's elector for president and vice-president.
23. Constitutional Amendment XXIV gives the United States citizens control of the awarding of electoral votes.
24. Therefore, each party nominated candidate in a state, Congressional District or the District of Columbia should receive, at the very least, a portion of an Electoral College vote.
25. The General Election for President is a national election not a state, Congressional District or the District of Columbia election.
26. States, Congressional Districts and the District of Columbia only conduct the General Election.
27. Electoral votes are to be counted at the national level.
28. Therefore, electoral votes earned by each party nominated candidate on the ballot in each state, Congressional District and the District of Columbia need to be submitted to the President of the Senate to be counted.
29. There is nothing in the United States Constitution or its amendments that allows a state, Congressional District or the District of Columbia to transfer electoral votes earned by one party nominated candidate to his/her opponent prior to those electoral votes being submitted for counting. (Winner-Take-All)
30. There is not any voting process, democratic or otherwise, that allows votes to be transferred from one candidate to his/her opponent prior to those votes being counted.
31. States, Congressional Districts or the District of Columbia governing bodies do not control how electoral votes for electors for President or Vice-President are awarded to party nominated candidates.
32. The electoral votes have to be awarded to each party nominated candidate in proportion to the number of citizens who voted in the state, Congressional District and the District of Columbia General

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Election according to the number of popular votes each party nominated candidate received.

33. Electoral votes that are not cast for the party nominated candidates in the same proportion as the party nominated candidates proportion to the overall popular vote in a state's, Congressional Districts' or the District of Columbia's General Election denies and abridges the citizen's right to vote for the party nominated candidate of their choice for President and Vice-President.
34. Electoral College member(s) do not have the authority to cast electoral vote(s) as if the electoral vote(s) are their own.
35. Electoral votes are awarded to states, Congressional Districts or the District of Columbia according to their number of representatives (which are determined by population), therefore, the electoral votes belong to the citizens.
36. The electoral voting system takes part in four stages.
37. **First:**
38. Either the state, Congressional District or District of Columbia provides for the appointment or nomination of Electoral College members (electors for president and vice-president) equal to the number senators and representatives they are entitled to in the Congress. (United States Constitution, Article II, section 1 and amendment XXIII)
39. **Second:**
40. There is the General Election in November where party nominated candidate's names are placed on the General Election ballot.
41. Citizens mark their ballots for the party nominated candidate of their choice.
42. Those marked ballots representing each citizen's vote are then converted to votes for electors for president and vice-president to reflect the citizen's choice for the Presidential and Vice-Presidential candidate of their choice.

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43. The electoral votes reflecting the citizen's choice for President and Vice-President are then submitted to the President of the United States Senate to be counted.
44. **Third:**
45. Constitutional Amendment XII requires that all electoral votes for all the Presidential and Vice-Presidential candidates be transmitted and directed to the President of the Senate for counting.
46. This includes any fractional portion of the electoral vote(s).
47. Electoral votes have to be allocated among the party nominated candidates on the state's, Congressional Districts' or the District of Columbia's ballot before submitting them to the President of the Senate for counting.
48. If electoral votes are not apportioned among the party nominated candidates before they are sent to the President of the United States Senate for counting, then a large number of citizens, whose popular votes are represented by one electoral vote, are denied their right to vote for president and vice-president through the Electoral College voting system.
49. **Fourth:**
50. The President of the United States Senate counts the electoral votes that have been transmitted to him.
51. Amendment XII indicates that the President of the Senate counts all the electoral votes, including any fractional portions thereof.
52. Those who adopted United States Constitution Amendment XII allowed for fractional portions of electoral votes.
53. Amendment XII states "the person having the greatest number of (electoral) votes for President shall be President, if such number be a majority of the "whole" number of electors appointed".
54. This indicates that after all the electoral votes and fractional portions thereof have been counted any remaining fractional portion of an electoral vote is then dropped.
55. There is nothing in the United States Constitution or its amendments that allows a state, Congressional District or the



- District of Columbia to award electoral votes earned by one party nominated candidate to his/her opponent. (Winner-Take-All)
56. Elector(s) for President or Vice-President need to properly allocate the electoral votes between the party nominated candidates.
  57. Denial and abridgement of a citizen's right to vote for President and Vice-President occurs if the electoral vote(s) are not properly allocated among the party nominated candidates on a state's, Congressional District's or the District of Columbia's General Election ballot.
  58. Not properly apportioning a state's, Congressional Districts' or the District of Columbia's electoral votes between the party nominated candidates constitutes falsifying electoral vote totals.
  59. "Winner-Take-All" awarding of electoral votes is a corruption of the Electoral College voting process and constitutes voter fraud.
  60. The "Winner-Take-All" method of awarding electoral votes to only one party nominated candidate on the General Election ballot creates falsified, corrupted and fraudulent electoral vote totals to be submitted by a state, Congressional District or the District of Columbia to the President of the United States Senate for counting.
  61. Amendment XII does not allow the president of the United States Senate to alter electoral vote(s) once those electoral votes have been certified and transmitted the President of the Senate for counting.
  62. Amendment XII does not allow the president of the United States Senate to try and determine what the correct number of electoral votes for all Presidential and Vice-Presidential candidates is supposed to be once they have been certified and transmitted the President of the United States Senate for counting.
  63. Votes were not counted in Florida in the 2000 Gore/Bush election because hanging chads couldn't be determined to be legal votes for Al Gore.

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64. Therefore, falsified electoral vote totals should not have been counted by the President of the United States Senate on January 6, 2017.
65. If electoral votes had been properly proportioned and not falsified after the November 8, 2016 General Election, Donald Trump would have only received 251 electoral votes.
66. **The proper constitutional procedure that should have been followed on January 6, 2017 is as follows.**
67. The President of the United States Senate should have stated that there was more than one party nominated candidate on the General Election Ballot in each state, Congressional District and the District of Columbia and therefore, more than one party nominated candidate should have been awarded at least a portion of the electoral votes allocated to each state, Congressional District or the District of Columbia.
68. The President of the United States Senate should have refused to count any of the falsified electoral vote totals that were submitted to him.
69. The President of the United States Senate should have said he didn't have any authority to alter any of the electoral votes directed to him for counting.
70. The President of the United States Senate should have said he didn't have any authority to try and determine the correct number of electoral votes for each of the party nominated candidates directed to him for counting.
71. By refusing to count falsified electoral vote totals directed to him for counting, then the procedure stated in Constitutional Amendment XII for determining the next President of the United States would have been as follows.
72. None of the at least five party nominated candidates would have had any electoral votes.
73. Therefore, none of the at least five party nominated candidates would have had a majority of electoral votes.

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74. There would not be three persons with the highest electoral vote totals.
75. Therefore, the House of Representatives would not have three names to choose from, by ballot, to be President of the United States.
76. Members of the House of Representatives do not have any Constitutional authority to nominate any other person or persons for them to vote on.
77. Therefore, the House of Representatives would not have been able to choose a President before January 20, 2017.
78. Therefore, the Constitution states "the Vice-President shall act as President, as in the case of the death or other constitutional disability of the President".
79. Because of the submission of falsified electoral vote totals by the states, Congressional Districts and the District of Columbia, on January 6, 2017, Vice-President Joe Biden is the only Constitutionally lawful person who should have been sworn in as President of the United States on January 20, 2017.
80. Two provisions of the Preamble to the United States Constitution indicates the Constitution was written under the premise of ensuring domestic tranquility and to promote the general welfare of the United States.
81. Recently the United States Senate altered its rule for confirming a judge for the United States Supreme Court from a two-thirds majority to a simple majority.
82. Shortly after that illegitimate President Donald Trump suggested that the United States Senate use a simple majority to pass all legislation in the Senate.
83. Simple majority rule goes against the premise under which the United States is meant to enact legislation.
84. Eliminating the two-thirds majority requirement to pass legislation sets up majority dictatorship.

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85. Majority dictatorship neither ensures domestic tranquility nor promotes the general welfare of the United States.
86. President George Washington, in his farewell speech stated that the United State Constitution was adopted after "full investigation and mature deliberation" by all parties to the writing of the Constitution.
87. Those same principles of full investigation and mature deliberation are needed, especially now, to ensure that all United States citizens can be in agreement, for the most part, about any legislation enacted.
88. A Supreme Court opinion in the late 1980's or early 1990's stated just because something has been done wrong for a long time doesn't make it right.
89. Therefore, citizens of the United States have to rely on the courts to correct any unconstitutional actions that have occurred.

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## **JURISDICTION**

I am suing for a violation of my voting rights granted by the United States Constitution. (Specifically, my (citizen's) voting rights as granted by Amendments XII, XIV and XXIV of the United States Constitution)

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## **RELIEF WANTED**

1. The "Winner-Take-All" method or any method that awards all of a state's, Congressional Districts' and the District of Columbia's electoral votes to only one party nominated candidate to be ruled unconstitutional.
2. The electoral votes counted by the President of the United States Senate on January 6, 2017 to be invalidated because electoral college members falsified the state's, Congressional Districts' and the District of Columbia's electoral vote totals they transmitted to be counted.
3. Donald Trump to be disqualified because he is not a legitimate Constitutional President of the United States and removed from office because falsified, fraudulent electoral vote totals were submitted by states, Congressional Districts and the District of Columbia to be counted on January 6, 2017.
4. Mike Pence to be disqualified because he is not legitimate Constitutional Vice-President of the United States and removed from office because falsified, fraudulent electoral vote totals were

submitted by states, Congressional Districts and the District of Columbia to be counted on January 6, 2017.

5. Any and all executive orders, legislation or any other action that Donald Trump, as an unofficial, unconstitutional president, may have enacted be expunged from the record.
6. Ambassadors, Cabinet Members, Judges and any other appointed positions filled by Donald Trump are to be vacated because he is not a constitutionally lawful person to be acting as President of the United States.
7. An injunction to restrain Donald Trump from signing any more Executive Orders or making appointments of any kind.
8. Joseph Biden to be sworn in as the legal constitutional President of the United States in accordance with the United States Constitution.
9. The House of Representatives to select a Vice-President of the United States in accordance with the United States Constitution Amendment XII.



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E. JURY DEMAND

I want a jury to hear my case.

☐

- YES

☒

- NO

I declare under penalty of perjury that the foregoing is true and correct.

Complaint signed this 15<sup>th</sup> day of May 2017.

Respectfully Submitted,

Gary L Barnes

Signature of Plaintiff

(920) 737-1180

Plaintiff's Telephone Number

garybarnes@twc.com

Plaintiff's Email Address

2357 Sunny Lane Apt G

Summerville, WI 54313-8195

(Mailing Address of Plaintiff)

(If more than one plaintiff, use another piece of paper.)

**REQUEST TO PROCEED IN DISTRICT COURT WITHOUT PREPAYING THE FILING FEE**

☐

I **DO** request that I be allowed to file this complaint without paying the filing fee. I have completed a Request to Proceed in District Court without Prepaying the Filing Fee form and have attached it to the complaint.

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I **DO NOT** request that I be allowed to file this complaint without prepaying the filing fee under 28 U.S.C. § 1915, and I have included the full filing fee with this complaint.